

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN MIKE TAYLOR**, on February 19, 2001 at 8:00 A.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Mike Taylor, Chairman (R)
Sen. Mike Sprague, Vice Chairman (R)
Sen. Edward Butcher (R)
Sen. Vicki Cocchiarella (D)
Sen. Sam Kitzenberg (R)
Sen. Dale Mahlum (R)
Sen. Glenn Roush (D)
Sen. Don Ryan (D)

Members Excused: Sen. Dale Berry (R)

Members Absent: None.

Staff Present: Bart Campbell, Legislative Branch
Kyanne Kelly, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 401, 2/17/2001; SB 428, 2/17/2001; SB 432, 2/17/2001; SB 465, 2/17/2001; SB 415, 2/17/2001; SB 420, 2/17/2001
Executive Action: SB 450; SB 480; SB 367; SB 441; SB 474; SB 415; SB 308; SB 428; SB 414; SB 432; SB 438; SB 401; SB 86

HEARING ON SB 401

Sponsor: SENATOR COREY STAPLETON, SD 10, BILLINGS

Proponents: Roger McGlenn, Independent Insurance Agents
Susan Good, Representing herself

Opponents: Claudia Clifford, State Auditors Office
Jerry Driscoll, MT Construction Trades Council,
Marsha Youngman, Mayor of Bozeman
Al Smith, Montana Trial Lawyers Association
Mary Arnold, Representing herself
Darrell Holzer, AFL-CIO
REPRESENTATIVE MICHELLE LEE, LIVINGSTON
Sami Butler, Montana Nursing Association
Rebecca Moog, Montana Women's Lobby
Wendy Young, Working for Employment Equality

Informational Witness: Jerry Keck, Department of Labor

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 2.1}

SENATOR COREY STAPLETON, SD 10, BILLINGS, said Montana is the only state which still has unisex insurance. He said generally accepted and actuarial numbers should determine insurance rates and Montana's unisex law prevents them from determining rates in this manner.

Proponents' Testimony:

Roger McGlenn, Independent Insurance Agents, said this is an economic issue, not a social issue.

Susan Good, Representing herself, thinks this is the most dispassionate, intelligent approach to this problem and that it makes a great deal of sense.

Opponents' Testimony:

Claudia Clifford, State Auditors Office, said this bill repeals the non-gender insurance statute, which is a part of the human rights code. She said this bill would allow insurance companies to rate according to gender and marital status. **EXHIBIT (bus41a01)**
EXHIBIT (bus41a02)

Jerry Driscoll, Montana Construction Trades Council, said this would repeal 492309 of the federal pension laws. He further said that this would be a book keeping nightmare to try to keep track of the spouse option retirement if this bill passed.

Marsha Youngman, Mayor of Bozeman, said the way things are now is more beneficial to women and families. Women get less from all insurances when it is based upon sex.

EXHIBIT (bus41a03) EXHIBIT (bus41a04)

Al Smith, Montana Trial Lawyers Association, said he opposes it basically on the fairness grounds. He said he doesn't think the Human Rights Act should be reversed.

Mary Arnold, Representing herself, submitted a letter from Susan J. Law from Missoula, who was unable to be here.

EXHIBIT (bus41a05)

Darrell Holzer, AFL-CIO, said they oppose this bill.

REPRESENTATIVE MICHELLE LEE, Livingston, said this is an economic punishment for gender.

Sami Butler, Montana Nurses Association, opposes this bill for a variety of reasons, all of which have been stated.

Rebecca Moog, Montana Women's Lobby, handed in written testimony.

EXHIBIT (bus41a06)

Wendy Young, Working for Employment Equality, said the insurance industry is not struggling for profits, whereas families in Montana are. She said this bill puts a tax on women and families and it goes into the pocket of the insurance companies.

Informational Witness:

Jerry Keck, Department of Labor and Industry said in the last five years there have been virtually no complaints about the way things are now. He also said that employer sponsored plans would be prohibited from considering sex in deciding premiums. He also said there might be some question of whether the Montana constitution is being violated by this bill.

Questions from Committee Members and Responses: none

Closing by Sponsor:

{Tape : 1; Side : B; Approx. Time Counter : 4.7}

SENATOR COREY STAPLETON, SD 10, BILLINGS, said that reproductive health is covered in this bill. He asked to be trusted because he knows what he is talking about.

HEARING ON SB 428

Sponsor: **SENATOR DAN HARRINGTON, SD 19, BELGRADE**

Proponents: **Don Judge, AFL-CIO**

Opponents: **Aidan Myhre, Montana Chamber of Commerce**

Informational Witness: **Jim Hill, Unemployment Insurance**

Opening Statement by Sponsor:

{Tape : 1; Side : B; Approx. Time Counter : 9.6}

SENATOR DAN HARRINGTON, SD 19, BELGRADE, said this bill would bring Montana just to the average as far as unemployment is concerned. It would bring the rate from 60% to 66%, which amounts to a raise of \$17.00 a week. He showed the weekly benefits paid in Montana by a handout. **EXHIBIT (bus41a07)**

Proponents' Testimony:

Don Judge, AFL-CIO, said they support the bill. He noted that the bill goes into effect in July of this year, if passed. He assured the committee it would not drive rates up in Montana.

Opponents' Testimony:

Aidan Myhre, Montana Chamber of Commerce, said this is a good idea, but wondered what would happen if things get worse.

Informational Witness:

Jim Hill, Unemployment Insurance, said he was there to answer any questions.

Questions from Committee Members and Responses:

SENATOR SPRAGUE asked **Don Judge** which of the bills before the legislature would be the most important?

Don Judge said this bill would affect people for years out, so this bill would have the most beneficial long term effect.

Senator Ryan asked for elaboration of the statement "things continue to get worse"

Aidan Myhre said she was referring to the companies that have been closing in the last 6 months.

Closing by Sponsor:

{Tape : 1; Side : B; Approx. Time Counter : 22.5}

SENATOR DAN HARRINGTON, SD 19, BELGRADE, said this is an opportunity to get us up to the national average.

HEARING ON SB 432

Sponsor: **SENATOR MIKE TAYLOR, SD 37, PROCTOR**

Proponents: **Andy Poole, Department of Commerce**
 Dave Micheletti, MSE Technology Applications, Inc
 Jim Kanluch, Montana Energy Research Company
 Evan Barrett, Montana Economic Development Assoc

Opponents: None

Informational Witness: **Mae Nan Ellingson, Dorsey & Whitney,**
States Bond Council

Opening Statement by Sponsor:

{Tape : 1; Side : B; Approx. Time Counter : 25}

SENATOR MIKE TAYLOR, SD 37, PROCTOR, said this was brought to the special session as SB 5. The bill is back because of a problem in bonding authority, consequently an aerospace business has been lost.

Proponents' Testimony:

Andy Poole, Department of Commerce, said this bill is primarily designed to allow the Department of Commerce to work with companies who want to move to Montana.

Dave Micheletti, MSE Technology Applications, Inc, said there is currently a new opportunity which the funds from this bill could

make a reality. He said this program would be to develop the world's first hypersonic wind tunnel. He supports this bill as a way to develop more business in Montana.

Jim Kanluch, Montana Energy Research Company, said they view this bill as a critical part of economic development in Montana.

Evan Barrett, Montana Economic Development Association, said this would fix the law from the special session to make it more functional. He said this bill provides flexibility in ownership, in procurement and construction which will help economic growth in Montana.

Opponents' Testimony: None

Informational Witness: **Mae Nan Ellingson, Dorsey & Whitney, States Bond Council** said there were some problems in implementing the bill from the special session. She noted that it is necessary to be aware of the State Constitution when enacting these bills.

Questions from Committee Members and Responses:

SENATOR SPRAGUE asked what went wrong with the bill in the special session?

Mae Nan Ellingson said the problems were constitutional, practical and the need of making the situation comply with state law.

SENATOR SPRAGUE asked if her company was involved in the bonding in the other states.

Mae Nan Ellingson said she did not know.

SENATOR SPRAGUE asked what made Nevada a good state to move the business to.

Evan Barrett said it was a matter of timing. Things took too long to get through the procurement requirements.

SENATOR DON RYAN asked if this is providing money from the state for the companies to build their building.

Mae Nan Ellingson said this is not the state guaranteeing the bond, it is a state bond.

Closing by Sponsor:

{Tape : 2; Side : B; Approx. Time Counter : 1.6}

SENATOR MIKE TAYLOR, SD 37, PROCTOR, said this is a critical bill for economic development for Montana. It puts Montana in the aerospace business. And aerospace provides high paying jobs.

HEARING ON SB 465

Sponsor: **SENATOR EVE FRANKLIN, SD 21, GREAT FALLS**

Proponents: **Jan VanRiper, State Auditor's Office**
 Jacqueline Lenmark, Am Insurance Assoc
 Jerome Anderson, Nat. Assoc of Life Ins
 Jon Metropoulos, Farmers Ins. Group
 Greg Van Horssen, State Farm Insurance
 Susan Witte, Blue Cross/Blue Shield
 Roger McGlenn, Independent Ins. Agents
 Al Pontrelli, Assoc of Insurance Advisor
 Mary Allen, MT Benefits & Life Company

Opponents: None

Opening Statement by Sponsor:

{Tape : 2; Side : B; Approx. Time Counter : 3.7}

SENATOR EVE FRANKLIN, SD 21, GREAT FALLS, said this bill is an attempt to put some restrictions on the use of personal information that is gathered by insurance companies when it is a matter that was not condoned by the person whose information it was.

Proponents' Testimony:

Jan VanRiper, State Auditor's Office, explained the bill and amendments in detail. **EXHIBIT (bus41a08) EXHIBIT (bus41a09)**

Jacqueline Lenmark, American Insurance Association, supports this bill, but has some suggested amendments.

Jerome Anderson, National Association of Life Insurance, said he supports this bill, but would like to add some amendments.

Jon Metropoulos, Farmers Insurance Group, said he offers conditional but confident support, particularly if the amendments are approved.

Greg Van Horssen, State Farm Insurance, said he generally supports this bill, and he also supports the amendments advanced by the industry as well as the technical amendments.

Susan Witte, Blue Cross/Blue Shield, said she supports the bill, but has her own amendment, which would allow sharing of information in the small group setting.

Roger McGlenn, Independent Insurance Agents, said he conceptually supports this bill, subject to seeing the final amendments.

Al Pontrelli, Association of Insurance Advisor, said he supports this bill.

Mary Allen, Montana Benefits & Life Company, said she supports the bill.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SENATOR DALE BERRY asked why there were so many amendments, and wondered if this could be fixed into a complete bill.

Jan VanRiper said later in the day all of the people would get together to come up with a final proposal for amendments.

Closing by Sponsor:

{Tape : 3; Side : B; Approx. Time Counter : 4.9}

SENATOR EVE FRANKLIN, SD 21, GREAT FALLS, said this is a complex bill which has been worked on for over a year. She said the bottom line is to fix the disclosure part.

HEARING ON SB 415

Sponsor: SENATOR JOHN COBB, SD 25, AUGUSTA

Proponents: Susan Good, Allied Citizens for Health Care Equity

Opponents: Tanya Ask, Blue Cross/Blue Shield
Claudia Clifford, Insurance Commissioners Office
Steve Turkiewicz, Montana Auto Dealers Association
Mary Allen, Montana Benefits & Life Company

Glen Leavitt, University System Benefits

Opening Statement by Sponsor:

{Tape : 3; Side : B; Approx. Time Counter : 7}

SENATOR JOHN COBB, SD 25, AUGUSTA, said this is an act to provide direct payment to health care providers who provide health insurance services.

Proponents' Testimony:

Susan Good, Allied Citizens for Health Care Equity, said that when physicians are not paid directly it costs them money which they in turn pass on to their patients. **EXHIBIT (bus41a10)**
EXHIBIT (bus41a11)

Opponents' Testimony:

Tanya Ask, Blue Cross/Blue Shield, said this bill will prohibit an insurer from using direct payments as an incentive to encourage medical providers to accept the insurers fee schedule.

Claudia Clifford, Insurance Commissioners Office, said primarily at this point people use networks to guarantee to the consumer that the provider is not charging them any more than the insurance policy is paying.

Steve Turkiewicz, Montana Auto Dealers Association, said affordable health insurance comes from affordable health care, and if the committee can see how this would be more affordable health care vote for it; if not, don't vote for it.

Mary Allen, Montana Benefits & Life Company, said she wants to contain the cost of health care, and setting up networks would do that.

Glen Leavitt, University System Benefits, said this bill would increase the cost to their members.

Questions from Committee Members and Responses: None

Closing by Sponsor:

{Tape : 3; Side : B; Approx. Time Counter : 28.9}

SENATOR JOHN COBB, SD 25, AUGUSTA, said this wouldn't raise the cost of insurance at all. He said that the bill is only asking

for a direct payment and there is nothing wrong with that concept.

HEARING ON SB 420

Sponsor: SENATOR DUANE GRIMES, SD 20, CLANCY

Proponents: Greg Van Horssen, State Farm Insurance
Jon Metropoulos Farmers Insurance Group
Joe Mazurek, D.A. Davidson
Jacqueline Lenmark, American Insurance Association

Opponents: None

Opening Statement by Sponsor:

{Tape : 4; Side : A; Approx. Time Counter : 1}

SENATOR DUANE GRIMES, SD 20, CLANCY, said this bill would establish the concept that security sales persons are independent contractors, not employees for the purpose of the Montana Unemployment Insurance Act. It would also standardize language between the Unemployment Insurance Act and the Workers Comp Act.

Proponents' Testimony:

Greg Van Horssen, State Farm Insurance, this bill will return the status of commissioned securities and insurance salesman as exempt from the definition of employment.

Jon Metropoulos, Farmers Insurance Group, said he supports this bill.

Joe Mazurek, D.A. Davidson, supports this bill.

Jacqueline Lenmark, American Insurance Association, said she supports this bill.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SENATOR COCCHIARELLA asked how the bill got passed through in 1997.

Greg Van Horssen said it was included in with another bill and many people missed the impact of this part of the bill.

Kevin Braun, Department of Labor and Industry, agreed that that is what happened. He said the bill was big, and it was included along with many other things and the impact of it wasn't noticed.

Closing by Sponsor:

{Tape : 4; Side : A; Approx. Time Counter : 10}

SENATOR DUANE GRIMES, SD 20, CLANCY, closed without comment.

EXECUTIVE ACTION ON SB 450

Motion/Vote: **SEN. COCCHIARELLA** moved that **SB 450 DO PASS**. Motion carried unanimously.

EXECUTIVE ACTION ON SB 480

Motion: **SEN. TAYLOR** moved that **SB 480 DO PASS**.

Discussion: **CHAIRMAN TAYLOR** said the biggest problem with this bill is that it wasn't included in the appropriations bill and **SENATOR BERRY** is working with Lois Menzies to add an appropriation.

Vote: Motion carried unanimously.

EXECUTIVE ACTION ON SB 367

Motion: **SEN. SPRAGUE** moved that **AMENDMENTS TO SB 367 BE ADOPTED**.

Discussion: **SENATOR MAHLUM** asked if it would be a hard thing for the credit card companies to set the software for this. **CHAIRMAN TAYLOR** said yes it would, according to the credit card companies. **SENATOR SPRAGUE** said there was some concern that the credit card company would just pass the charge onto the customers. He said this has never been done before and that it was relatively innovative. He said he thinks it is no more complicated than making an adjustment in the computer. **SENATOR RYAN** said the problem might be better handled by the state reimbursing people for collecting the tax.

Vote: Motion carried unanimously.

Motion: SEN. SPRAGUE moved that SB 367 DO PASS.

Discussion: CHAIRMAN TAYLOR said he thinks this is a good attempt, but probably the wrong way to solve the problem.

SENATOR BUTCHER said he has received a lot of mail from independent gas dealers. SENATOR SPRAGUE said he thought it was a good attempt at dealing with the problem, and that it is a problem that needs to be dealt with.

Vote: Motion carried 7-2 with Ryan and Taylor voting no.

EXECUTIVE ACTION ON SB 441

Motion/Vote: SEN. COCCHIARELLA moved that SB 441 BE TABLED. Motion failed 5-4 with Cocchiarella, Mahlum, Roush, and Ryan voting aye.

Motion: SEN. TAYLOR moved that SB 441 DO PASS.

Discussion: SENATOR COCCHIARELLA said this is a horrible bill. She said this would essentially be a pay cut for University employees. We would need to put on the front page that this committee just gave them a pay cut if this bill was passed.

CHAIRMAN TAYLOR said he thinks this spreads the costs to two groups that are not currently sharing in the cost. **Chuck Butler from Blue Cross/Blue Shield** came forward for clarification. He said that it would spread the cost to people who are not benefitting from it.

Vote: Motion failed 4-5 with Berry, Butcher, Sprague, and Taylor voting aye.

Motion/Vote: SEN. COCCHIARELLA moved that SB 441 BE TABLED. Motion carried 5-4 with Berry, Butcher, Sprague, and Taylor voting no.

EXECUTIVE ACTION ON SB 474

Motion: SEN. SPRAGUE moved that AMENDMENTS TO SB 474 BE ADOPTED.

Discussion: Bart Campbell explained the amendments.

Vote: Motion carried unanimously.

Motion/Vote: SEN. SPRAGUE moved that SB 474 DO PASS AS AMENDED.
Motion carried unanimously.

EXECUTIVE ACTION ON SB 415

Motion/Vote: SEN. SPRAGUE moved that SB 415 BE TABLED. Motion carried 7-2 with Ryan and Taylor voting no.

Committee adjourned at 12:00, to reconvene at 3:00

EXECUTIVE ACTION ON SB 308

Motion/Vote: SEN. BUTCHER moved that AMENDMENTS TO SB 308 BE ADOPTED. Motion carried unanimously.

Motion: SEN. RYAN moved that SB 308 DO PASS AS AMENDED.

Discussion: SENATOR RYAN said we need to have some safeguards because of the things going on in the state right now. He said that this would help people in fixed income or no income situation. SENATOR BUTCHER said people should get off their butt and get a job.

Vote: Motion failed 2-5 with Kitzenberg and Ryan voting aye.

Motion/Vote: SEN. TAYLOR moved that SB 308 BE TABLED. Motion carried 5-4 with Cocchiarella, Kitzenberg, Roush, and Ryan voting no.

EXECUTIVE ACTION ON SB 428

Motion: SEN. TAYLOR moved that AMENDMENTS TO SB 428 BE ADOPTED.

Discussion: SENATOR TAYLOR said he thinks the jump from 60% to 66% is too great to start with. He provided an amendment that would bring it from 66% to 63%.

Vote: Motion carried 5-1 with Ryan voting no.

Motion/Vote: SEN. TAYLOR moved that SB 428 DO PASS AS AMENDED. Motion carried unanimously.

EXECUTIVE ACTION ON SB 414

Motion/Vote: SEN. MAHLUM moved that AMENDMENTS TO SB 414 BE ADOPTED. Motion carried 8-1 with Cocchiarella voting no.

Motion/Vote: SEN. ROUSH moved that SB 414 BE TABLED. Motion carried 6-3 with Butcher, Cocchiarella, and Ryan voting no.

EXECUTIVE ACTION ON SB 432

Motion/Vote: SEN. TAYLOR moved that AMENDMENTS TO SB 432 BE ADOPTED. Motion carried unanimously.

Motion: SEN. TAYLOR moved that SB 432 DO PASS AS AMENDED.

Discussion: SENATOR RYAN said he thinks a door is being opened for one type of business for which the government is going to supply the bonds. This person would profit from building the building as well as the building itself. Bart Campbell said that the state would keep ownership of the building and lease it to the builder. CHAIRMAN TAYLOR said we lost a project this summer because the language was written poorly. Now this is written to bring business into the state.

Vote: Motion carried 8-1 with Ryan voting no.

EXECUTIVE ACTION ON SB 438

Motion: SEN. SPRAGUE moved that AMENDMENTS TO SB 438 BE ADOPTED.

Discussion: Bart Campbell explained the amendments, which came from State Farm and the State Auditor, a compromise among them.

Vote: Motion carried unanimously.

Motion/Vote: SEN. SPRAGUE moved that SB 438 DO PASS AS AMENDED. Motion carried unanimously.

EXECUTIVE ACTION ON SB 401

Motion: SEN. BUTCHER moved that SB 401 DO PASS.

Discussion: **SENATOR COCCHIARELLA** pointed out there are two issues, the retirement benefit and the health benefits. She said that only the insurance industry wants these changes, it is working well for others. She pointed out that the bigger the pool the more you spread out the risk, and thus the premiums are lower. **SENATOR BERRY** said it is a cost vs benefit thing, not a discrimination thing. **SENATOR BUTCHER** said most other states have moved to this position.

Vote: Motion failed 4-5 with Berry, Butcher, Mahlum, and Sprague voting aye.

Motion/Vote: SEN. COCCHIARELLA moved that SB 401 BE TABLED. Motion carried 5-4 with Berry, Butcher, Mahlum, and Sprague voting no.

EXECUTIVE ACTION ON SB 86

Motion: SEN. COCCHIARELLA moved that SB 86 DO PASS.

Discussion: Senator Butcher said he doesn't want a flimsy after market part put on a new car. Senator Sprague said this is a turf war of people who want exclusive parts, and those who want to be competitive. Senator Butcher said this bill only deals with the shells of the vehicles. Chairman Taylor said he doesn't believe it gives the consumer a choice.

Vote: Motion carried 6-3 with Mahlum, Roush, and Sprague voting no.

ADJOURNMENT

Adjournment: 11:55 A.M.

SEN. MIKE TAYLOR, Chairman

KYANNE KELLY, Secretary

MT/KK

EXHIBIT (bus41aad)